

In Re: Chittoor Krishnaswami

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Court : Chennai

Decided On : Mar-04-1942

Reported in : AIR1942Mad455

Appellant : In Re: Chittoor Krishnaswami

Judgement :

Leach, C.J.

1. The petitioner who is an advocate, of the Rangoon High Court applies for enrolment is as an advocate of this Court. He is an Indian and was born in Madras, but hitherto he has only practiced in Burma. As the result of the invasion of Burma by the Japanese he has returned to the land of his birth and wishes to practice his profession here. The petitioner holds the degree of Bachelor of Arts and the degree of Bachelor of Laws of the University of Rangoon and it was on these qualifications that he was enrolled as an advocate of the Rangoon High Court some 17 years ago. When the Indian Bar Councils Act, 1926, came into force .Burma was a Province of British India and remained part of British India until the Government of India Act, 1935, came into operation on 1st April 1937. Until the separation took place, the Rangoon High Court was a High Court within the meaning of the Bar Councils Act, but as the result of the separation the Act no longer applies to it. Section 8(1) states that no person shall be entitled as of right to practise in any High Court, unless his name is entered in the roll of the advocates of the High Court maintained under the Act. Sub-section (2) says that the High Court shall prepare and maintain a roll of advocates in which shall be

entered the names of (a) all persons who were, as advocates, vakils or pleaders, entitled as of right to practise in the High Court immediately before the date on which the section came into force; and (b) all other persons who have been admitted to be advocates of the High Court under the Act. There is a proviso to this section to the effect that such persons shall have paid in respect of enrolment the stamp fee chargeable under the Stamp Act, 1899, and a fee payable to the Bar Council, which shall be ten rupees in the case of the persons referred to in Clause (a) and in other cases such amount as may be prescribed. The rules of the Bar Council of Madras prescribe a fee of Rs. 50 'in other cases.' Article 30, Stamp Act, requires a person on enrolment as an advocate of an Indian High Court to pay a stamp fee of Rs. 500. On enrolment in the Rangoon High Court the petitioner paid the Rs. 500 and he has now paid the Rs. 50 required by the rules of the Madras Bar Council. He asks to be enrolled as an advocate of this Court as the result of a resolution of the Madras Bar Council passed under the proviso to Rule 16 recommending exemption from strict compliance with its rules. He maintains that if he is enrolled no further stamp fee is necessary.

2. Rule 1(i) of the Madras Bar Council Rules provides that a person who has taken the degree of Bachelor of Laws of any of the Universities established by law in British India or taken a degree in law of any other University which the Bar Council may by general or special order accept as equivalent to that degree, be admitted as an advocate of this Court. Rule 3 requires a person applying for admission Under Rule 1(i) to have studied as a pupil in the chambers of an advocate practising in the Madras High Court or in one of the district centers specified and requires him also to have passed the examination prescribed by Rule 22, or to have practised as a pleader in the Court of a District or a Subordinate Judge in the Presidency or in one of certain specified Courts outside the Presidency for a period of not less than five years immediately preceding the date of his application; or to have practised as a pleader for not less than ten years in any other Court; or to have presided as a Judge of a civil Court in the Presidency for a period of not less than five years immediately preceding the date of his application. Rule 1(ii) states that an advocate entered on the roll of advocates of a High Court 1906 for Rs. 250 established by Letters Patent other than the High note stated. Court of Madras may be enrolled as an advocate provided that there is reciprocity in this

respect between the High Court in which the applicant has been enrolled and this Court. The petitioner cannot claim admission Under Rule 1 (ii) because the Rangoon High Court has never reciprocated with this Court or in fact with any other Court in British India,

3. Having obtained the law degree of the Rangoon University at a time when that University was a University established by law in British India the petitioner can claim admission Under Rule 1(i), but in that case 11. 3 comes into operation and naturally having practised as an advocate in the Rangoon High Court for seventeen years he does not wish to study as a pupil in the chambers of an advocate of this Court for a period of 12 months. Consequently, the petitioner has to rely on the proviso to Rule 16. That proviso is to the effect that the Bar Council may in special cases, for reasons to be recorded by it recommend to the High Court for exemption a candidate not complying with all or any of the requirements of the rules and that on such exemption being granted, he shall be deemed to have complied with the rules. The Madras Bar Council has considered the petitioner's case and has recommended to this Court that he be enrolled without the necessity of complying with the requirements of its rules. We agree with the Bar Council that this is a fit case for granting an exemption and we direct that the petitioner be enrolled as an advocate of this Court. There remains to be considered the question whether the petitioner is required to pay the stamp fee referred to in Article 80, Stamp Act. That article exempts an advocate who has already paid the required fee on enrolment in a High Court from, payment of it when he is enrolled in another High Court. The term 'High Court' of course must be deemed to be a High Court established in British India. The Rangoon High Court can no longer be regarded as an Indian High Court, but it had that status when the petitioner was enrolled, and as he paid the fee required by the Stamp Act on that occasion we consider that he comes within the exemption contained in the article. Consequently, the petitioner will be enrolled without the payment of any further fee.